

FILED
CHARLOTTE, NC

JUL 30 2007

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

ROBERT EVERTON RUSHIE

Plaintiff,

vs.

HUSEBY INC,

SCOTT A. HUSEBY

MARTHA WARE

Defendant(s).

COMPLAINT

(42 U.S.C. §1983, §1985)

Case No. 3:07-cv-301

TRIAL BY JURY

DEMANDED HEREIN

A. JURISDICTION

Jurisdiction is proper in this court according to:

- a. 42 U.S.C. §1983
- b. 42 U.S.C. §1985
- c. X Other (Please Specify) 28 U.S.C. § 1331

B. PARTIES

- 1. Name of Plaintiff: ROBERT EVERTON RUSHIE
Present mailing address: F.C.I. CUMBERLAND
P.O. BOX 1000
CUMBERLAND, MARYLAND 21501
- 2. Name of first defendant: HUSEBY INC.
Present mailing address: 301 south McDowell Street
Suite 1000
CHARLOTTE, NORTH CAROLINA 28204

Is Employed As _____ at HUSEBY INC.
(Position and Title, if any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ____ NO X. If your answer is "YES" briefly explain.

3. Name of second defendant: SCOTT A. HUSEBY
Present mailing address: 301 South McDowell Street
Suite 1000
Charlotte, North Carolina 28204

Is Employed As CEO/president at HUSEBY INC.
(Position and Title, if any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ____ NO X. If your answer is "YES" briefly explain.

4. Name of third defendant: MARTHA WARE
Present mailing address: 301 South McDowell Street
Suite 1000
Charlotte, North Carolina 28204

Is Employed As COURT REPORTER at HUSEBY INC.
(Position and Title, if any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ____ NO X. If your answer is "YES" briefly explain.

NONE

(Use additional sheets if necessary.)

C. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

HUSEBY INC. , WAS CONTRACTED WITH TO TRANSCRIBE THE TRIAL OF ROBERT
EVERTON RUSHIE, IN CRIMINAL CASE , 1:00 CR - 396 - 1 , IN THE UNITED
STATES DISTRICT COURT, MIDDLE DISTRICT OF NORTH CAROLINA. THE COMPANY
FAILED TO TRANSCRIBE ALL THE TRIAL. PLEASE SEE ATTACHED " MEMORANDUM "

C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

a. (1) Count I: VIOLATION OF 28 U.S.C. § 753 (b)

- (2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing any legal authority. Use additional sheets if necessary.)

HUSEBY INC., SCOTT A. HUSEBY CEO/PRESIDENT OF HUSEBY INC. AND
MARTHA WARE, COURT REPORTER, EMPLOYEE OF HUSEBY INC.; FAIL-
ED TO TRANSCRIBE THE CLOSING ARGUMENTS, THE OPENING ARGUMENT
AND THE POLLING OF THE JURY. ATTACHED MEMORANDUM...

b. (1) Count II: _____

- (2) Supporting Facts:

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

I WAS SENTENCED TO 210 MONTHS IN FEDERAL PRISON AS A RESULT OF THE TRIAL
IN CRIMINAL CASE, 1:00 CR-396-1. I'M NOW APPEALING THE CASE. I'M BEING
INJURED BECAUSE I DON'T HAVE ALL THE TRIAL TRANSCRIPTS TO USE IN MY
APPEAL. THIS VIOLATION OF 28 U.S.C. § 753 (b), WILL COST ME YEARS OF MY
LIBERTY. PLEASE SEE ATTACHED MEMORANDUM

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action. YES ___ NO X. If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

- a. Parties to previous lawsuits:

Plaintiff(s): _____

Defendant(s): _____

- b. Name of court and case or docket number: _____

- c. Disposition (for example: was the case dismissed? Was it appealed? Is it still pending?) _____

d. Issues raised: _____

e. When did you file the lawsuit? _____
Date Month Year

f. When was it (will it be) decided? _____

2. Have you previously sought informal or form relief from the appropriate administrative officials regarding the acts complained of in Part C?
YES ___ NO X. If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

ADMINISTRATIVE RELIEF IS NOT APPLICABLE.

F. REQUEST FOR RELIEF

1. I believe I am entitled to the following relief:

I BELIEVE I AM ENTITLED TO A DOLLAR AMOUNT OF RELIEF IN THE
AMOUNT OF \$ 5,000,000.00

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. Section 1746; 18 U.S.C. Section 1621.

Executed at F.C.I.- CUMBERLAND on JULY 23, 2007

Robert E. Rushin

David Holla July 23, 2007
NAME David Holla TITLE Core Manager
AUTHORIZED BY THE ACT OF JULY 7, 1955 TO
ADMINISTER OATHS (18 USC 4004).

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA

ROBERT EVERTON RUSHIE,
Plaintiff.

CASE NO:

TRIAL BY JURY DEMANDED HERE IN

- VS -

HUSEBY, INC.
SCOTT A. HUSEBY,
MARTHA WARE,
Defendants.

PETITIONER'S MEMORANDUM AND BRIEF OF LAW IN SUPPORT OF APPLICATION
UNDER 28 U.S.C. § 1331 VALIDITY OF UNCONSTITUTIONAL LENGTH OF DENTENTION.
OPENING STATEMENT

This is a complaint for damages against there individuals as damaged parties sharing some of the causes of action herein,with other causes of action being separte and apart. The plaintiff have been denied his right to a fair trial for a violation of the court report Act because the defendants failed in thier constitutional and statutory duties to protect the rights of your plaintiff. Because of the acts and ommissions of the defendants alleged herein,part of records of plaintiff's trial were not transcribed in violation of 28 U.S.C. § 753 (b), for which all defendants knew or should have to know that under the Act there was a necessity to transcribed all proceeding in criminal cases.

The damages range from violations of the 1st, 5th, 6th, and 9th Amendment rights to the constitution of the United States.

JURISDICTION AND VENUE

1. Declarant, Robert Everton Rushie, invoke this court's jurisdiction over this action by reason of the first, Fifth, Sixth, and Ninth Amendment to the United States constitution, and by virtue of 28 U.S.C. § 1331, 1343 (3), and 28 U.S.C. § 2201. Plaintiff's claims arise pursuant to the constitution, 42 U.S.C. § 1983 and 1988, and 28 U.S.C. § 1331.

VENUE

2. Defendants reside in Charlotte, North Carolina, within the judicial District of this court. Plaintiff's claims arose within the judicial district of this court.

PLAINTIFF

3. Plaintiff Robert Everton Rushie is a citizen and resident of the United States and the state of North Carolina, and is over the age of Eighteen (18) years. Plaintiff is resident of Greensboro, North Carolina, and at all relevant times herein, plaintiff was a resident of Greensboro county, North Carolina.

4. All the defendants in this case are in fact federal officers of the state of North Carolina, but plaintiff reasonably believes that the defendants who are not, in fact, federal officers, became federal officers because of their actions performed as appointed as court reporters. Defendants Huseby, INC, Scott A. Huseby, and Martha Ware were willfully involved as joint participants in the illegal conduct herein alleged with the approval of the Administrative office of the United States Court as Agents of the federal courts.

The illegal conduct alleged herein was undertaken by, for and with approval of federal agents for which conduct failed to transcribe of plaintiff trial the closing arguments and the polling of the jury which was undertaken under color of law.

5. Defendant, Huseby INC, hereinafter " Huseby " at all times relevant to this complaint is a corporation chartered in the state of North Carolina upon reason and belief, authorized to carry on business to record all proceedings in criminal cases had in open court and to produce the record shall promptly

transcribe the original records of the requested parts of the proceedings and to attach to the transcript his official certificate, and deliver the same to the party or judge making the request within the state of North Carolina.

It is not known to plaintiff of the Huseby INC., is chartered to do business within the state of north carolina, however, the Huseby does have an active office located within the venue and jurisdiction of this court. Huseby INC.. has been frequently known and notorious for sending agents to willfully and maliciously fail to record all proceedings in plaintiff's criminal trial for which it is mandatory in violation of clearly established law and with total disregard or deliberate indifference towards constitutionally protected rights to be secure in one's trial.

The Huseby apparently condones such actions from it's employees, Actions of Huseby agents are notorious and widespread for not requiring court reporters to record all proceedings in criminal case in open court to record, Verbatim and should be - a - policy of Huseby to use court reporters to effectaul policies of recording court proceedings properly, and the original records in part for which the reporters are supposedly trained to do judicial proceedings, Huseby is being sued as a person.

B. Defendant, Scott A. Huseby, hereinafter " Scott " at all times relevant to this complaint is the owner, employed, and compensated, for his duties as CEO and President for Huseby INC. Scott is a person who makes policies ratifies, condone and carries out policies for other agents in Huseby INC. Scott is also responsible for training and supervising and controlling agents in lower rank within Huseby INC. Scott operating as a federal actor, is liable under the constitution and is either directly responsible for the damages cause herein or he is the proximate cause for the resulting damages. Scott is being sued in his individual capacity and in his official capacity as an employee of Huseby INC.

Defendant, Martha ware, hereinafter " Ware " at all times relevant to this complaint is an employee of Huseby and acting as an official capacity of court reporter who is compensated, for her official capacity. Ware has sworn an oath of office in regards to her official duties which includes defending the constitution of United States sworn faithfully to perform the duties of her office. 28 U.S.C. § 753 (a). Ware is bonded in regards to her official functions and is being sued individually and in her official capacity.

STATEMENT OF FACTS

1. Plaintiff, Robert Rushie, was in trial during the month of April____, 2001 for a federal offense.

2. On or about April _____, 2001 Martha Ware was assigned to perform her duties under the court reporters Act pursuant to 28 U.S.C. § 753 (b), to record all proceedings of plaintiff's criminal trial which she knew or reasonably should have known that such Act of Congress is mandatory.

3. On or about October, 2002, Plaintiff contacted the clerk of court to request copy of the transcript of his trial. He was directed from the clerk to contact the company who actually was contracted by the court to perform such duties. in fact, he contacted the company, Huseby, to request a copy of the portion of his trial that he needs to defend in his criminal case. SEE:..... Attachment (A.)

4. Afterwards, plaintiff contacted directly to the company, Huseby, requesting the said transcript that was supposedly fully transcribed to prove his claims of prosecutorial misconduct through the closing arguments.

5. On May 27, 2003, the Huseby President, Mr. Scott A. Huseby, Contacted plaintiff by letter informing him that portions of his trial were not recorded by Ms. Ware. SEE ATTACHMENT (B).

6. In such letter, the company's President clerly admitted the misconduct occurred during plaintiff's trial for failure to record portions of the proceeding in his criminal case. (Id).

7. Because of the failure to record some portions of his criminal case plaintiff is unable to prove during the pendency of the criminal proceedings the misconduct occurred during the closing arguments by the prosecutor.

8. Since the requirements of the Act directing reporter to record all proceedings in criminal cases had in open court are mandatory, and the transcript is of crucial importance to plaintiff to prove its prosecutorial misconduct this caused prejudiced of his criminal case.

9. Based upon the aforementioned allegations plaintiff herein have suffered and have been damaged.

10. The defendants knew or should have known that it was their statutory duty requirement that court reporter record verbatim all proceedings in criminal cases held in open court which is mandatory. Defendants knew or should have known that it was unreasonable and under color of law failure to record portions of plaintiff's trial proceeding. The defendants showed a deliberate indifference to plaintiff rights.

11. Plaintiff has been damaged by the actions Martha Ware by her willful and unreasonable failure to record verbatim portions of proceeding in plaintiff's criminal trial while allegedly performing under the discretion and authority of Huseby or the federal Government.

As a direct and proximate result plaintiff has suffered prejudice with his criminal case for the lack of evidence to prove the prosecutor's misconduct during the trial, emotional shock, trauma, and fear of being tried without the constitutional protections afforded by founders fathers by failed to record verbatim the trial proceeding by the court reprter, allegedly acting on behalf of the Unioted States Government through the officer agency of the Huseby INC.

12. Plaintiff herein demand relief against each of the Defendants persons named herein for their specific acts or omissions.

D. FEDERAL CAUSES OF ACTION

1. Paragraphs 1 through 12 are incorated herein as if fully reproduced herein by reference.

2. The above described actions and omissions engaged under color of federal authority by the defendants Huseby INC., sued as person responsible because of it's authorization, condonation, and ratification for the acts of it's agents deprived plaintiff of rights secured to him and expected by him by the constitution of the United States in it's entirety including but not limited to plaintiff's First Amendment right and Ninth Amendment right to Freedom of Expression, and to petition the government for a redress. Plaintiff Fifth and Sixth Amendment right to a fair trial and to due process of law, were violated.

PRAYER FOR RELIEF

Plaintiff, Robert E. Rushie demands the following relief jointly and distently against defendants Scott A. Huseby, Martha Ware and Huseby INC...

- A. Compensatory damages in the amount of two Million Dollarss.
- B. Punitive damages in the amount of three Million Dollars against Huseby INC..
- C. Issue a declaratory judgment pursuant to 28U.S.C. § 2201 that the acts and omissions of defendants deprived plaintiff of his constitutional right to Freedom of Speech, to a fair trial, and due process of law.
- D. Award to plaintiff judgment against defendants for the damages set forth herein above, including exemplary damages.

RESPECTFULLY SUBMITTED,

Robert E. Rushie

ROBERT E. RUSHIE, PRO SE

REG. 20564-057

P.O. BOX 1000

FEDERAL CORRECTIONAL INSTITUTION
CUMBERLAND, MARYLAND 21501-1000

David Holler
July 23, 2007
NAME David Holler TITLE Coxe Manager
AUTHORIZED BY THE ACT OF JULY 7, 1955 TO
ADMINISTER OATHS (18 USC 4004).

DECLARATION OF ROBERT EVERTON RUSHIE

In accordance with the provisions of section 1746 of title 28 UNITED STATES CODE, I hereby make the following declarations:

1. That your affiant after being duly sworn according to law to tell the truth to the facts related herein.

2. That your affiant have prepared the foregoing complaint and having first hand knowledge of the facts herein have placed his signature hereon this instrument as testimony to those facts so help him God, on this 23 day of JULY in the year of our lord two thousand seven.

I declare under penalty of perjury that the foregoing facts state in the complaint are true and correct to the best of my knowledge.

Executed this 23 day of JULY, 2007

David Holter July 23, 2007
David Holter
NAME David Holter TITLE Cox Major
AUTHORIZED BY THE ACT OF JULY 7, 1955 TO
ADMINISTER OATHS (18 USC 4004).

Robert E. Rushie
ROBERT E. RUSHIE, PRO SE
REG NO. 20564-057
F.C.I. P.O. BOX 1000
CUMBERLAND, MARYLAND 21501

Robert Everton Rushie
20564-057 Unit A-204
Rivers Corr. Facility
Post office Box 630
Winton N.C. 27986

Scott Hoseby
Hoseby Inc.
301 S. McDowell St. Suite 1000
Charlette, N.C. 28204

May 6th, 2003

Ref. Jury Poll & Closing Argument Transcript.

Dear Mr. Hoseby & Ms. Ware:

Having sought to obtain the closing argument of my trial from the clerk of court's office, the clerk of court directed me to contact Ms. Martha Ware, court reporter, for this portion of the trial transcript. When I called Ms. Ware's office/company, I talked to her colleague, one Angie, who in turn talked to Ms. Ware about my need for the closing argument of my trial which Ms. Ware court reported or transcribed, Ms. Ware told Angie that she, Ms. Ware is not the one who transcribed the closing arguments of this trial.

Therefore I write, having spoken to Mr. Scott Hoseby the manager of their company, to specifically ask Ms. Ware and her company to urgently assist me by directing me or suggesting in principle where, or when I can immediately contact for this requisition.

Your prompt and informative reply is my urgent prayer, for the said matter is a prerequisite to my instant appeal.

Sincerely I, and my circumstances, am waiting.

Robert E. Rushie
Robert Everton Rushie

Exh. A.



an affiliate of spherion

301 South McDowell Street
Suite 1000
Charlotte, NC 28204
Phone: 704-333-9889
Fax: 704-372-4593

May 27, 2003

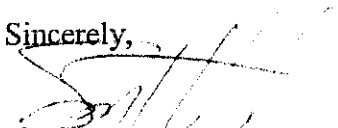
Robert Everton Rushie # 20564-057
Unit A-204
Rivers Correctional Facility
Post Office Box 630
Winton, NC 27986

Dear Mr. Rushie:

I have been informed by the reporter that what has been transcribed from your trial is all that she has to transcribe. I reviewed the transcript, and you are correct, it does not have closing arguments or the polling of the jury. While I have contacted her several times, she has failed to produce any additional transcription. She states it was her understanding that closing arguments are not recorded unless specifically requested by the attorneys, which is correct for State Court only. I have informed the reporter of her responsibilities as a court reporter in Federal Court and as a reporter with this company and this should not happen again. While I realize this does not help your situation at hand, I do apologize profusely. The federal courts have relied on me and my company for competent professional services for many years. This is the first time I have had to write a letter of this sort.

Again, I apologize for any inconvenience this may have caused.

Sincerely,


Scott A. Huseby, RPR, CSR
CEO/President
cc: Martha Ware

E. R.